REMARKS

This responds to the Office Action issued on October 7, 2010. Claims 56 and 63 are amended. Reconsideration is respectfully requested in view of these amendments and the following remarks.

Independent claims 56 and 63 are rejected under 35 U.S.C. §102(e) as being anticipated by Gustafson (U.S. 7,725,889). The Applicant respectfully disagrees. Nonetheless, independent claims 56 and 63 are amended to further distinguish from the cited reference.

Independent claim 56 is directed towards a method of updating a mobile device having a baseline configuration stored in a mobile device memory where, during initialization of the mobile device, update data is evaluated to determine whether it contains valid update data. If the update data is not valid, then the mobile device reverts to the baseline configuration. If the update data is valid, then the mobile device prompts for a manual selection between the baseline mobile device configuration and the updated mobile device configuration, accepts the updated mobile device configuration if an input is received selecting the updated mobile device configuration, and reverts to the baseline mobile device configuration if an input is received selecting the baseline mobile device configuration. In other words, if the update data is valid, then the mobile device gives the user a choice whether to accept the update or to revert to the baseline configuration. This is not disclosed or suggested by the cited Gustafson reference.

In Gustafson, when the mobile device is powered on, the device automatically determines if an update of the "update agent" is needed. If so, then the mobile device backs up the old update agent, and employs the contents of an earlier retrieved update package. The mobile device is then rebooted. After reboot, "the mobile device 107 may determine which update agent should be used: the updated update agent (new) or the old update agent that may be available in the backup section of non-volatile memory 111." Gustafson explains that "[i]t may be necessary to use the old update agent in [a] situation such as, for example, when the new update agent may be corrupted or
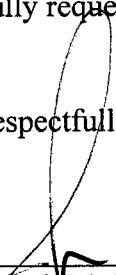
7

ineffective." "If the mobile handset 107 determines that the new update agent may be used, then a regular startup of the mobile handset 107 may be initiated..." (See, Gustafson, Col. 4., lines 23-60 and Fig. 2A).

The Office Action concludes that Gustafson's determination whether to use the updated or old update agent anticipates the claimed operations of prompting a selection between the baseline mobile device configuration and the updated mobile device configuration, accepting the update mobile device configuration if the updated mobile device configured is selected, and reverting to the baseline mobile device configuration if the baseline mobile device configuration is selected. The Applicant respectfully disagrees. First, claim 56 recites these operations only "if the update data is determined valid." This is clearly not the case in Gustafson, in which the old update agent is only used if the new one is determined to be corrupted or ineffective (not after a determination that the update is valid.) Second, the operations described in Gustafson are performed automatically by the mobile device at initialization; Gustafson does not suggest giving the user a choice to accept the update or revert to the baseline. This distinction is made even more clear by the amendment to claim 56. For at least these reasons, the Applicant respectfully submits that claim 56, along with its dependent claims, are patentable over the cited Gustafson reference and are in condition for allowance.

Claim 63 is an apparatus claim that includes similar limitations as method claim 56, and that has been similarly amended to further distinguish from the cited Gustafson reference. The Applicant therefore respectfully submits that claim 63, along with its dependent claims, are patentable over Gustafson for at least the same reasons set forth above with reference to claim 56.

For the foregoing reasons, the Applicant respectfully submits that the pending claims are allowable. Therefore, the examiner is respectfully requested to pass this case to issuance.

Respectfully submitted,

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9